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OCT 11 1994

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Policies and Rules Implementing ) CC Docket No. 93-22  
the Telephone Disclosure and )  
Dispute Resolution Act )

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COMMENTS OF  
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET), pursuant to the Federal Communications Commission's (Commission's) Order on Reconsideration (Order) and Further Notice of Proposed Rulemaking (FNPRM) released August 31, 1994, hereby files its Comments in the above-referenced docket.<sup>1</sup>

The proposed regulations would place local exchange carriers (LECs) in the role of *de facto* law enforcement officers, charged with the responsibility for maintaining control over the pay-per-call services provided by information providers (IPs) to their customers. SNET believes that this burden has been misplaced. While SNET would plan to include appropriate provisions to enforce the FCC requirements, SNET may only become aware of violations of those provisions via customer complaints. These comments demonstrate that the LECs are not in a position to control IP activity, and that enforcement responsibility must be

<sup>1</sup> Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 94-200, CC Docket No. 93-22.

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redirected to the providers of these services and not directed at the LECs.

I. Introduction

The Commission has recognized the fact that additional obligations must be required to enforce the Telephone Disclosure and Dispute Resolution Act (TDDRA) and to afford the intended protection to consumers. SNET shares the Commission's concerns. In fact, in light of the adverse customer reaction created by billing for pay-per-call services provided using 800 numbers, SNET decided recently to discontinue billing and collection for such calls. SNET does also recognize, however, that LECs are limited in their ability to assist the Commission in its ultimate goal of protecting the customer against deceptive billing practices. SNET is concerned that the proposed rules will impose significant burdens on the LECs and may ultimately be impossible to implement due to administrative requirements.

The growth of information services and pay-per-call services has created new business arrangements between the providers of these services and the end-user customer. In many cases, the LECs have no involvement in either the arrangement or the provision of pay-per-call services. IPs obtain the services of billing clearinghouses to process the call traffic and LECs contract with these billing clearinghouses to provide billing to end-user customers who utilize these IP-provided information services.

LECs can include language in their billing contracts that require their billing clearinghouses to code calls as information services so that they can be separated from other types of calls on the customer's bill. However, the LEC is completely reliant on the billing clearinghouse to properly designate each call. If this is not done, LECs have no means to identify the call as relating to a "pay-per-call" service. Even if the correct billing information is made available, LECs are unable to determine the content of the call, the competency or the identity of the person that entered into the presubscription agreement, or the validity of the presubscription agreement itself. LECs can obtain this information only, after the fact, through costly monitoring or auditing of the clearinghouse's billing or when a customer files a complaint. If abuse is found, then appropriate action can be taken. SNET believes that the cost and administrative burden of monitoring and auditing all types clearinghouse calls to insure that the few "pay-per-call" services billed are properly coded and classified as "pay-per-call" services is not in the public interest. As noted later in these comments, LECs have no reasonable way to differentiate miscoded pay-per-call services, and even if such a mechanism existed, LECs have no means to validate conclusively if the subscriber properly authorized the call, without contacting the IPs' customers directly.

Given these circumstances, SNET recommends that the additional compliance requirements be directed to the IP. SNET believes that the most effective and appropriate means for the

Commission to accomplish its goal is to work with the Federal Trade Commission (FTC) to insure that IPs are complying with their TDDRA obligations.

II. LECs Do Not Contract Directly With IPs.

SNET believes that the imposition of compliance obligations on the LECs (e.g. written verification of the presubscription agreement, etc.) is impractical. It could force LECs to terminate billing arrangements with clearinghouses which bill for these types of calls as well as non-pay-per-call services, thus eliminating the availability of billing by the LEC for all calls handled by the clearinghouse. SNET does not contract directly with IPs for billing and collection of information services. SNET contracts with a billing clearinghouse that processes the call data passed by the IP for billing to the end user. These billing clearinghouses not only pass pay-per-call messages through for billing, but also pass call messages for direct distance dialed, credit card and bill-to-third calls. Moreover, this call data is passed onto the LECs long after the call is completed. As a result, LECs have no knowledge of the individual with whom the IP enters into a presubscription or comparable agreement or the circumstances of the call at the time the call is placed.

The Commission proposes to require that common carriers obtain evidence of a presubscription agreement before billing subscribers for these calls. It is not clear precisely what evidence is expected to be in hand before billing can take place.

For example, SNET is unclear, and would need to seek clarification, as to whether a copy of the written presubscription agreement would be required or whether a statement of the process required to be followed by IPs in obtaining presubscription arrangements would be sufficient. As noted above, the LECs rely on the billing clearinghouses to pass the required information and to properly identify calls for information services. Any procedure initiated by LECs to verify evidence of a presubscription or comparable arrangement on an individual call basis prior to billing of the call would create an enormous administrative burden which would adversely affect the LECs' ability to bill efficiently.

SNET notes that the Commission has wrestled with the issue of written authorization in the matter of Policies and Rules for Changing Long Distance Carriers<sup>2</sup>. In this proceeding, the Commission required an interexchange carrier to obtain a Letter of Authorization (LOA) from the customer before processing a change in the customer's long distance carrier. The LEC is not required to obtain or verify the existence of a valid LOA before making the change (the LOA is the written authorization and final proof of the customer's choice of long distance carrier). This requirement was imposed in response to numerous customer complaints to the Commission regarding unauthorized carrier changes (also known as slamming).

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<sup>2</sup> In the Matter of Policies and Rules Concerning Changing Long Distance Carriers, Report and Order, released January 9, 1992, CC Docket No. 91-64.

In spite of the requirement for written authorization, the procedure known as slamming remains one of the highest categories of customer complaints made or filed with the Commission<sup>3</sup> (2,163 for the period May 1993 through May 1994). In instances concerning allegations of unauthorized changes, the interexchange carrier must produce the LOA. If there is no valid authorization, the change is corrected and the interexchange carrier is assessed the carrier change charge. Thus, the burden of responsibility falls on the interexchange carrier that sent through the change, not the LEC that processed the change. SNET recommends that in the instant case, the responsibility for unauthorized presubscription or comparable agreements belongs to the IP or billing clearinghouse, that sends the call through for billing, not the LEC that presents the call for payment.

III. Information Service Calls Must Be Properly Identified to the LEC In Order to Meet the Requirement of Separation.

The Commission has proposed that carriers that provide billing services for presubscribed information services for IPs be required to separate these charges from those of other telecommunications services and to display specific information regarding these calls as to: 1) type of service; 2) service provider's name and business telephone number; 3) telephone number actually dialed; and 4) date and time of the calls, or for calls billed on a time sensitive basis, the duration of the call.

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<sup>3</sup> Consumer Complaints and Inquiries About Common Carrier Issues Received During the Months of May 1993 through May 1994.

However, the required separation is possible only if information service calls are sent through on a specific record type for proper screening and subsequent separation. If the IP or the billing clearinghouse does not utilize the proper record type to identify information service calls, these calls will be treated as typical toll calls. SNET's screening capability cannot distinguish miscoded calls from typical toll calls, and therefore cannot separate such calls on a customer's bill. The same situation applies to the additional required information. SNET can only provide this information on its bills if it is provided by the clearinghouse. SNET can require that this information be provided and could include the reported information on the bill. However, SNET realistically cannot verify that each call is appropriately identified before billing the call. SNET's ability to comply with such a Commission requirement is limited and often must rely on customer complaints to bring the problem to our attention.

IV. The FTC Must Take Action to Place the Burden of Responsibility On The Information Providers to Bill Correctly for Information Services.

TDDRA has entrusted the Federal Trade Commission with the responsibility for overseeing the IPs that provide information services. SNET respectfully suggests that if a solution is to be found, it should be the FTC's responsibility to exercise its authority and implement rules and regulations that place compliance with TDDRA upon the IPs. The numerous customer complaints have sent a clear message that the rules that govern

the provision of information services need strengthening. This becomes especially important as the telecommunications industry proceeds toward introduction of the "information superhighway" offering more and more services by service providers directly to the consumer.

SNET fully supports the Commission's intent to protect the customer against deceptive billing practices; however, to be effective the burden of compliance must be placed on the provider of the service.

V. Conclusion

In summary, SNET recommends that the Commission work with the FTC to insure the IPs' compliance with TDDRA rules and regulations. LECs must not be held accountable for improper billing practices of IPs where there is no reasonable basis to ascertain the nature of the underlying call before billing.

Respectfully submitted,

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October 11, 1994